

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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HUNTAIR, INC.

Plaintiff,

vs.

CLIMATECRAFT, INC.

Defendant.

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)  
) Case No. 07 C 6890  
)  
) The Honorable Judge David H. Coar  
)  
) Magistrate Judge Morton Denlow  
)  
)  
)

**JOINT MOTION TO REVISE SCHEDULING ORDER WITH RESPECT TO  
EXCHANGE OF EXPERT DISCOVERY**

The parties jointly request modification of the revised scheduling order entered on July 9, 2008 to allow for expert reports to be exchanged on September 29, 2008. The deadlines at issue pertain to expert discovery exchanged among the parties and will not affect any deadline for court filings. The parties request that the Court permit them to exchange expert discovery as set forth in the proposed, revised schedule. The parties presented a joint motion to revise the scheduling order, which was granted in part on July 9, 2008. At that hearing, the Court indicated fact discovery would be extended as requested (from July 31, 2008 to September 19, 2008) but the deadline for filing dispositive motions would remain as originally set (on September 24, 2008). At the time of the oral hearing, counsel for both parties understood that the Court intended to allow the proposed change in expert discovery deadlines, so that the initial expert reports would be exchanged on September 29, 2008, rather than August 29, 2008. However, upon reviewing the written minute order (Docket Entry No. 59), counsel now realizes that the deadline for the exchange of these reports was not extended, and requests

clarification/permission to exchange expert discovery according to the revised schedule previously tendered.

The parties request the later schedule for exchanging expert discovery for two principal reasons. First, if the Court renders its claim construction, the experts can apply it in their analyses. Second, fact discovery will be completed by then. The previous schedule in the case allowed for the exchange of expert reports shortly after the close of fact discovery. Because the parties have been completing their document production over the course of the last few weeks, there are depositions that should be taken prior to the exchange of the expert reports.

If granted, the parties would exchange expert discovery as follows:

- A. The parties shall disclose any expert testimony pursuant to Rule 26(a)(2) on or before September 29, 2008.
- B. The parties may depose the other side's expert at any time prior to October 17, 2008.
- C. The parties shall disclose any rebuttal expert pursuant to Rule 26(a)(2)(C) at any time prior to October 30, 2008.
- D. The parties shall have until November 14, 2008 to depose the opposing party's rebuttal expert.

The parties have discussed the matter, and do not feel that the exchange of expert reports will impact the ability of either party to file any necessary motions for summary judgment by September 24, 2008.

Dated: August 25, 2008

Respectfully submitted,

/s/ Richard T. McCaulley, Jr..

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Dated: August 25, 2008

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 25th day of August, 2008, I caused a copy of the foregoing document to be served by ECF upon:

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